

Baird Urges Debate on Continuity of Representation (October 4, 2007)

Washington, D.C. - September 11, 2001 brought to light many grim realities, including the fact that if members of Congress are killed or incapacitated by a catastrophic event, our nation's citizens would effectively be left without representation. For six years, Congressman Brian Baird (WA-03) has led the effort calling for a reasonable, constitutionally valid solution to address the need for continuity of representation in Congress following an attack on the Capitol or on members themselves. Yet, little has been done to address the possibility that a devastating level of vacancies in the House and Senate could occur, and what that would mean for our country.

The unfortunate reality is that Congress is still vulnerable to attack, and yet we still don't have a Constitutional mechanism for replacing House members quickly," said Baird. "I understand this isn't a pleasant or easy topic for members to discuss, but we cannot continue to bury our heads in the sand and hope that we remain safe. I don't know what could be more important for the future of our country than ensuring that we have a way to reinstate our government quickly and effectively."

Congressman Baird has re-introduced legislation calling for a Constitutional amendment that would provide a mechanism for Congress to continue functioning even after a catastrophic event.

Currently, when a House seat becomes vacant, it is filled by a special election; when a Senate seat becomes vacant, the governor typically appoints an individual to temporarily fill the vacancy. In 2005, Congress passed a measure directing states to hold special elections to fill seats within 49 days of a vacancy. However, this approach is flawed. Data show that states do not have laws in place that would prepare them to hold special elections within 49 days. Nor does the approach address how Congress will operate for the 49 days between the catastrophe and the special elections.

"We do not need Osama bin Laden videos to know that Washington generally, and the Capitol specifically, remain prime targets for terrorists, high on the al Qaeda wish list for the six years since 9/11," said Norm Ornstein, Resident Scholar, American Enterprise Institute for Public Policy Research. "How long will we have to go before Congress acts to make sure that the country and the Constitution are protected through sensible succession plans to ensure that even if terrorists succeed in striking again, they will fail in their goal to cripple Congress and our system of government?"

Six years after the shattering terrorist attacks of 9/11, Congress has yet to provide for its own continuity in the wake of a catastrophic assault on the Capitol that kills or incapacitates large numbers of its members," said Thomas Mann, the W. Averell Harriman Chair and Senior Fellow, The Brookings Institution. "Leaving American constitutional democracy in this danger is the height of irresponsibility. It is time for the new Congress to do what the old ones would not."

Under Baird's proposed Constitutional amendment:

Upon being sworn into the House or Senate, members would provide a list of three designees one of whom would replace them in the event of their death, incapacitation or disappearance.

If a significant number of members were killed, incapacitated, or disappeared, the Speaker of the House of Representatives, Vice President, or President Pro Tempore of the Senate would fill any vacancy from the list of the

Representative's or Senator's designees.

The designees would only serve in office until the Senators or Representatives regained capacity, were located, or another Member was elected to fill the vacancy.

Congress would establish the criteria for determining whether a Senator or Representative is considered dead, incapacitated, or has disappeared.

States would be required to hold special elections as soon as possible to elect replacements.

This issue is too important to continue living in a state of what if's, continued Baird. The potential of an attack is real, the possibility of a Constitutional crisis is real, yet Congress seems to pretend that nothing will ever happen. We can no longer remain unwilling to address the reality of the world in which we live; the time to act is now.

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